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January 27, 2006

BY ELECTRONIC FILING

The Honorable Kent A. Jordan
United States District Court
844 King Street
Wilmington, DE 19801

Re: Boehringer Ingelheim v. Barr; C.A. No. 05-700 (KAJ)
Boehringer Ingelheim v. Mylan; C.A. No. 05-854 (KAJ)

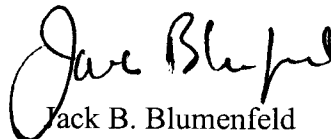
Dear Judge Jordan:

I am writing pursuant to D.Del. LR 7.1.2(c) to bring to the Court's attention the recent decision in *Novartis Pharm. Corp. v. Teva Pharm. USA, Inc.*, 2005 WL 3664014 (D.N.J. Dec. 30, 2005) (attached), in connection with Barr's and Mylan's pending motions to strike Boehringer's willfulness allegations. In *Novartis*, the Court denied a similar motion, stating:

Although Teva is correct in stating that *Glaxo* stands for the proposition that an ANDA filing, without more, does not constitute willful infringement, it is possible that Novartis may be able to show activity in addition to the ANDA filing to support the issue of willfulness. As such, under *Yamanouchi*, Novartis is entitled to proceed with litigation under the current state of the pleadings.

Judge Cavanaugh's analysis in *Novartis* is similar to that of Chief Judge Robinson's in the *AstraZeneca* case cited in Boehringer's briefs.

Respectfully,


Jack B. Blumenfeld

JBB/bav
Attachment

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cc: Peter T. Dalleo, Clerk (By Hand w/Attachment)
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